

JOURNAL OF THE HOUSE.

Monday, August 23, 2004.

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mr. Rush of Boston in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer.

God of Forgiveness and Truth, we pause for a moment of prayer to think about You and our relationship to You. In Your goodness, help us to keep You and Your ways for achieving personal peace and success clearly in our minds, thoughts and intentions. In dealing with our daily, often complex, responsibilities and daily opportunities, grant us the wisdom to make thoughtful, reasoned and honorable choices. Teach us to place our trust and confidence in You, so that the people will trust in us and our decisions.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

Pledge of allegiance.

At the request of the Chair (Mr. Rush), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Message from the Acting Governor — Bill Returned with Recommendation of Amendment.

Municipalities, real estate sale.

A message from Her Honor the Lieutenant-Governor, Acting Governor, returning with recommendation of amendment the engrossed Bill relative to the use of certain funds by municipalities [see House, No. 4184, changed and amended] (for message, see House, No. 5066) was filed in the office of the Clerk on Friday, August 20.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was thereupon "before the General Court and subject to amendment and re-enactment".

Pending the question on adoption of the amendment recommended by the Acting Governor, the bill was referred, on motion of Mr. Donato of Medford, to the committee on Bills in the Third Reading.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Thomas J. Foley.

Resolutions (filed by Representatives Gobi of Spencer and Hillman of Sturbridge) congratulating Colonel Thomas J. Foley on the occasion of his retirement from the Massachusetts State Police.

Bradley G. Hibbard.

Resolutions (filed by Representatives Gobi of Spencer and Hillman of Sturbridge) congratulating Lieutenant Colonel Bradley G. Hibbard on the occasion of his retirement from the Massachusetts State Police; and

Resolutions (filed by Mrs. Teahan of Whitman) congratulating Eric W. Greene on the occasion of his retirement from the United States Air Force; Eric W. Greene.

Mr. Petrolati of Ludlow, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Scibak of South Hadley, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Papers from the Senate.

Bills

Authorizing the town of Westborough to grant 3 additional licenses for the sale of all alcoholic beverages to be drunk on the premises (Senate, No. 2327) (on a petition) [Local Approval Received]; Westborough, liquor licenses.

Validating the results of the annual town elections held in the town of Falmouth on May 18, 2004 (Senate, No. 2410) (on a petition) [Local Approval Received]; Falmouth, town election.

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Reports of Committees.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the petition of Robert A. DeLeo (by vote of the town) relative to creditable service for certain employees of the Winthrop Public Schools. Under suspension of the rules, on motion of Mr. Smizik of Brookline, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence. Winthrop, teachers retirement.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill establishing requirements for voters who register by mail (House, No. 4512) ought to pass certain amendments in lines 74 to 112, inclusive, by striking out the text contained therein; and by adding at the end thereof the following 2 sections: Voter registration.

"SECTION 2. Chapter 51 of the General Laws, as appearing in the 2002 official edition, is amended by striking out section 59A and inserting in place thereof the following section:—

Section 59A. (a) Whenever a person asserting a right to vote in a primary, caucus, preliminary, or other election appears at the polling place for the precinct in which such person resides, but such person is not permitted to vote, such person shall be allowed to deposit a provisional ballot as hereinafter provided.

A precinct election officer, who cannot confirm a potential voter's eligibility to vote on election day, shall notify the individual of the option of appearing before the municipal election official to dispute eligibility or vote a provisional ballot in that precinct pursuant to the procedures set forth herein.

Voter  
registration.

(b) To cast a provisional ballot, an individual shall execute a provisional ballot affirmation before a precinct officer at the polling place declaring they are a registered voter in the city or town and reside within the geographical boundaries of said precinct.

(c) A provisional ballot shall be counted if the municipal election official determines the individual is eligible to vote in the precinct in the election.

A provisional ballot shall not be counted if the municipal election official determines the individual is ineligible to vote in the precinct in the election.

(d) An individual who votes in an election for federal office as a result of a federal or state court order or any other order extending the time established for closing the polls by a state law in effect ten (10) days before the date of that election may only vote in that election by casting a provisional ballot.

A provisional ballot cast during an extension of the time for closing the polls required by orders described in this section shall be separated and held apart from other provisional ballots cast by those not affected by the order.

(e) The municipal election official shall count all eligible provisional ballots. A provisional ballot cast by an individual whose voter information is verified before 5 P.M. on the third day after a presidential or state primary or the twelfth day after a state election must be removed from its provisional ballot envelope, grouped with other ballots in a manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other ballot.

(f) The municipal election official must determine persons to be entitled to vote a provisional ballot whenever such persons have registered to vote in that city or town in the past and affirm in writing, signed under the penalties of perjury, that they have continuously resided in the city or town unless the municipal election official affirmatively establish, by evidence other than failure to respond to the street listing under M.G.L. c. 51, s. 4, or failure to respond to a notice under M.G.L. c. 51, s. 37, that the person has not in fact continuously resided in that city or town.

(g) The municipal election official shall report the disposition of all provisional ballots to the Secretary of the Commonwealth, Elections Division. This information shall be transmitted to the Secretary of the Commonwealth on or before the fourth day following a presidential or state primary and on or before the fifteenth day following a state election.

(h) Instructions shall be posted in each precinct on how to cast a provisional ballot. Each polling place shall have instructional sheets, as provided by the Secretary, instructing individuals on the process of casting a provisional ballot and determining whether the ballot was counted and if not, why.

(i) The Secretary of the Commonwealth shall make the agency toll free number available to individuals for the purpose of determining the status of provisional ballots. Provisional voters wishing to determine the disposition of their ballot may call the office of the Secretary of the Commonwealth's Election Division seven (7) days after a presidential or state primary and twenty (20) days after the

election. The Secretary, prior to providing information to a voter on the disposition of his ballot, shall verify the identity of the voter by name, address, date of birth and provisional voter number. The Secretary shall not discuss the disposition of any provisional ballot with any person other than the provisional voter.

(j) The state secretary shall promulgate regulations to achieve and maintain accuracy, uniformity and security from forgery and fraud in the procedures for casting provisional ballots.

SECTION 3. Section 135 of chapter 54 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking the word 'escrow' in line 53 and replacing it with the word:—provisional.— Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Scibak of South Hadley, the bill was read a second time forthwith.

The amendments recommended by the committee on Ways and Means then were adopted; and the bill (House, No. 4512, amended) was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Walsh of Lynn, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

Pending the question on passing the bill to be engrossed, Mr. DiMasi of Boston moved that it be amended by inserting before the enacting clause the following emergency preamble:

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith establish requirements for voters who register by mail, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

The amendment was adopted; and the bill (House, No. 4512, amended) was passed to be engrossed. Sent to the Senate for concurrence.

By Mrs. Owens-Hicks of Boston, for the committee on Local Affairs and Regional Government, on a message from His Excellency the Governor, a Bill authorizing the Rockland Sewer Commission to enter into a contract for the disposal of sewage and the Abington/Rockland joint water works to enter into a contract for the supply of water (printed in House, No. 4998). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Rockland  
Sewer  
Commission.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Nyman of Hanover, the bill was read a second time forthwith; and it was ordered to a third reading.

#### *Emergency Measure.*

The engrossed Bill authorizing the Commissioner of Capital Asset Management and Maintenance to convey certain land to the

Foxborough  
Housing  
Authority.

Foxborough Housing Authority (see House, No. 4976), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 15 to 0. Sent to the Senate for concurrence.

#### *Engrossed Bills.*

Bill  
re-enacted.

The engrossed Bill prohibiting discrimination against veterans in employment (see House, No. 1053, amended) (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be re-enacted, in its amended form; and it was signed by the acting Speaker and sent to the Senate.

Bills  
enacted.

Engrossed bills  
Relative to the authority of the Bureau of Special Investigations (see House, No. 4737, amended); and  
Authorizing the town of Norwood to lease certain land (see House, No. 4847, amended);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

#### *Reconsideration.*

Motorized  
scooters,  
regulate.

Mr. Lepper of Attleboro moved that the vote be reconsidered by which the House, at the preceding sitting, adopted, in concurrence, the Senate amendments to the House Bill relative to the operation of motorized scooters (House, No. 1544, amended); and the motion to reconsider was considered forthwith and it prevailed.

Pending the recurring question on concurring with the Senate in its amendments, the subject matter was recommitted to the committee on Bills in the Third Reading, on further motion of the same member.

#### *Orders of the Day.*

Kuzeja  
Real Estate  
Trust.

The engrossed Bill directing the commissioner of Capital Asset Management and Maintenance to place a conservation restriction on and transfer a certain parcel of land to the Kuzeja Real Estate Trust (see House, No. 3985, amended), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see House, 5057), was considered.

The committee on Bills in the Third Reading then reported recommending that the amendment be considered in the following form:

In section 1, in lines 2 to 5, inclusive (as printed), by striking out the following: “shall, notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, convey by deed approved as to

form by the attorney general” and inserting in place thereof the following: “is hereby authorized to convey subject to sections 40F½ and 40J of chapter 7 of the General Laws, convey by deed”.

The report was accepted.

The amendment recommended by the Governor then was adopted. Sent to the Senate for its action.

The Senate Bill relocating certain harbor lines in the Fairhaven and New Bedford harbors (Senate, No. 2170), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.

Third  
reading  
bill.

#### *Order.*

On motion of Mr. Finneran of Boston,—

*Ordered*, That when the House adjourns today, it adjourn to meet on Thursday next at eleven o'clock A.M.

Next  
sitting.

At seventeen minutes before one o'clock P.M., on motion of Mr. Coughlin of Dedham (Mr. Rush of Boston being in the Chair), the House adjourned, to meet on Thursday next at eleven o'clock A.M., in an Informal Session.